

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA
MARTINSBURG**

DARREN OLIVER ROBINSON,

Petitioner,

v.

**CIVIL ACTION NO. 3:05-CV-41
CRIMINAL ACTION NO. 3:04-CR-52
(BAILEY)**

UNITED STATES OF AMERICA,

Respondent.

JUDGMENT ORDER

By Standing Order entered on March 24, 2000, and filed in this case on May 11, 2005, this action was referred to United States Magistrate Judge James E. Seibert [Civ. Doc. 4] for submission of proposed report and a recommendation ["R & R"]. Magistrate Judge Seibert filed his R & R on April 4, 2007 [Crim. Doc. 59]. In that filing, the magistrate judge recommended that this Court grant Respondent's Motion to Dismiss [Crim. Doc. 46] and deny Petitioner's Motion to Vacate, Set Aside, or Correct Sentence Pursuant to 28 U.S.C. § 2255 [Crim. Doc. 37] and dismiss this matter without prejudice from the Court's docket.

The Court is not required to review, under a *de novo* or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the findings or recommendation to which no objections are addressed. ***Thomas v. Arn***, 474 U.S. 140, 150 (1985). In addition, failure to file timely objections constitutes a waiver of *de novo* review and the petitioner's right to appeal this Court's Order. 28 U.S.C. § 636(b)(1); ***Snyder v. Ridenour***, 889 F.2d 1363, 1366 (4th Cir. 1989); ***United States v. Schronce***, 727 F.2d 91, 94 (4th Cir. 1984). Here, objections to Magistrate Judge Seibert's R & R were due

within ten (10) days after being served with a copy of the R & R pursuant to 28 U.S.C. § 636(b)(1) and Fed.R.Civ.P. 72(b). No objections have been filed.

The Court adopts the recommendations of Magistrate Judge Seibert. Accordingly, the Court hereby **GRANTS** Respondent's Motion to Dismiss [Crim. Doc. 46] and **DISMISSES** Petitioner's § 2255 petition [Crim. Doc. 46] **without prejudice as premature**. The Court hereby **ORDERS** that this matter be removed from the Court's docket.

The Clerk is directed to mail a certified copy of this Judgment Order to all counsel of record, the plaintiff, pro se, and Magistrate Judge Seibert.

DATED: May 17, 2007.

/s/ John Preston Bailey
JOHN PRESTON BAILEY
UNITED STATES DISTRICT JUDGE